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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,720	09/30/2003	Teck Hu	2100.018000	3991

7590 12/27/2006  
Williams, Morgan & Amerson  
10333 Richmond, Suite 1100  
Houston, TX 77042

EXAMINER
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PHUONG, DAI

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/674,720

Applicant(s)

HU, TECK

Examiner

Dai A. Phuong

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's arguments, filed 10/20/2006, with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Claims 1-25 are currently pending.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 14 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Xu et al. (Pub. No: 2003/0172165).

Regarding claim 1, Xu et al. disclose a method of wireless communication (fig. 1A, [0035] and [0036]) comprising:

receiving a multicast control message (fig. 1B, [0051]. Specifically, Xu et al. disclose a multicast server 190 announcing the available multicast sessions to user terminal 110 via multicast data network 105);

determining at least one support requirement for accessing and receiving at least one multicast service, said at least one supportive requirement being indicated by the multicast control message (fig. 1B, [0051]. Specifically, Xu et al. disclose a Service discovery 111 of the terminal 10 provides an operator of user terminal 110 with a list of available multicast sessions

and the relevant information for each session. The relevant information includes the starting time and cost associated with a multicast session)

selecting a multicast service in response to received multicast control message based on the determined supportive requirement (fig. 1B, [0051]. Specifically, Xu et al. disclose the operator selects a multicast session from the list. In response to the operator's selection, user terminal 110 activates the selected multicast session).

Regarding claim 2, Xu et al. disclose all the limitation in claim 1. Further, Xu et al. disclose the method comprising: transmitting subscription information, the received multicast control message corresponding with the transmitted subscription information ([0045] and [0051]).

Regarding claim 3, Xu et al. disclose all the limitation in claim 1. Further, Xu et al. disclose the method wherein the subscription information comprises at least one of multicast subscription type, payment authentication data, and billing information ([0041], [0045] and [0051]. Specifically, Xu et al. disclose service discovery 111 provides an operator of user terminal 110 with a list of available multicast sessions and the relevant information for each session. The relevant information includes the **starting time and cost associated with a multicast session**.

Regarding claim 4, Xu et al. disclose all the limitation in claim 1. Further, Xu et al. disclose the method wherein the step of receiving a multicast control message is **at least one** or performed during a multicast service setup prior to receiving multicast content ([0041], [0045] and [0051]).

Regarding claim 5, Xu et al. disclose all the limitation in claim 1. Further, Xu et al. disclose the method wherein the step of receiving a multicast control message is performed in real-time, while receiving multicast content ([0052]).

Regarding claim 14, this claim is rejected for the same reason as set forth in claim 1.

Regarding claim 25, Xu et al. disclose all the limitations in claim 14. Further, Xu et al. disclose the method wherein receiving subscription information comprises receiving the subscription information from a mobile unit ([0045] and [0051]).

4. Claims 6-13 and 15-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xu et al. (Pub. No: 2003/0172165) in view of Trossen et al. (Pub. No: 2003/0157899).

Regarding claim 6, Xu et al. disclose all the limitation in claim 1. However, Xu et al. do not disclose the wherein each multicast service corresponds with at least one multicast rate.

In the same field of endeavor, Trossen et al. disclose the wherein each multicast service corresponds with at least one multicast rate ([0033] and [0035]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Xu et al. by specifically including each multicast service corresponds with at least one multicast rate, as taught by Sarkkinen et al., the motivation being in order to match data rate over the wireless channel.

Regarding claim 7, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 6. Further, Trossen et al. disclose the method wherein the multicast service is further selected in response to at least one subscriber resource ([0033] and [0035]).

Regarding claim 8, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 6. Further, Xu et al. disclose the method comprising: transmitting at least one feedback signal corresponding with the selected multicast service ([0051]).

Regarding claim 9, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 8. Further, Xu et al. disclose the method wherein the at least one feedback signal conveys an access time to the selected multicast service ([0058] and [0060]).

Regarding claim 10, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 6. Further, Trossen et al. disclose the method of claim 6, wherein the multicast control message comprises at least one of: number of available multicast services ([0027]. Specifically, Tresson et al. disclose in the example shown in FIG. 1, 171, 172, and 173 are layers that are an address can be associated with one or more layers. Conversely, a layer can be associated with one or more addresses.) Layer 173 corresponds to the audio component, layer 172 corresponds to the first video component, and layer 171 corresponds to the second video component. Wireless terminal 101 processes all layers (audio layer 173 and both video layers 171 and 172). Thus, wireless terminal 101 displays fast motion video and plays the music of the Rolling Stone's performance. Wireless terminals 161 and 162 process only layers 172 and 173, and thus display only the slow scan motion video and play the music); at least one resource threshold for each available multicast service ([0062]); at least one identifier for each available multicast service ([0027]); at least one radio access capability requirement for each available multicast service ([0027]); and notification of at least one of termination and continuation of multicast service ([0069]).

Regarding claim 11, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 10. Further, Trossen et al. disclose the method wherein the number of available multicast services are prioritized ([0027] and [0038]).

Regarding claim 12, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 10. Further, Trossen et al. disclose the method wherein the at least one resource threshold corresponds with at least one of allocated power and block error rate ("BLER") ([0033] and [0035]).

Regarding claim 13, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 6. Further, Trossen et al. disclose the method wherein the at least one identifier corresponds with at least one multicast rate associated with each of the number of available multicast services ([0033] and [0035]).

Regarding claim 15, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 16, this claim is rejected for the same reason as set forth in claim 10.

Regarding claim 17, this claim is rejected for the same reason as set forth in claim 12.

Regarding claim 18, this claim is rejected for the same reason as set forth in claim 6.

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 11.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 13.

Regarding claim 21, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 22, this claim is rejected for the same reason as set forth in claim 9.

Regarding claim 23, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 21. Further, Xu et al. disclose the method wherein receiving said at least one feedback signal comprises receiving said at least one feedback signal in response to determining at least one supportive requirement based on the multicast control message ([0051]).

Regarding claim 24, the combination of Xu et al. and Trossen et al. disclose all the limitation in claim 23. Further, Xu et al. disclose the method wherein receiving said at least one feedback signal comprises receiving said at least one feedback signal in response to selecting the multicast service based on determining said at least one supportive requirement ([0051]).

#### ***Response to Argument***

5. Applicant, on page 2 to page 3 of his response, argues that Xu is not at all concerned with whether or not the mobile units that receive the multicast data possess sufficient supportive requirements to make use of the multicast data. Accordingly, as admitted by the Examiner, Xu is completely silent with regard to determining at least one supportive requirement for accessing and receiving at least one multicast service based on information included in the multicast control message. However, the Examiner disagrees. First, Applicant used a particular phrases recited in the claim, e.g. “one supportive requirement for accessing” and “at least one multicast service”. During patent examination, the pending claims must be given their broadest reasonable interpretation. In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550- 51 (CCPA 1969). The broadest reasonable interpretation of the claims must also be



Art Unit: 2617

consistent with the interpretation that those skilled in the art would reach. In *re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). See MPEP 2111. Therefore, the Examiner interpreted “one supportive requirement for accessing” and “at least one multicast service” as “the starting time” and “cost associated with a multicast session or a multicast session from the list” respectively.

Applicant, on page 4 of his response, argues that Trossen is also completely silent with regard to determining at least one supportive requirement for accessing and receiving at least one multicast service based on information included in the multicast control message, as set forth in independent claims 1 and 14. However, the Examiner disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nguyen M Duc can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7503.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dai Phuong

AU: 2617

Date: 12-16-2006



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